

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-4683

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PATRICIA DERBAUM,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Falcon B. Hawkins, Chief District Judge. (CR-97-453)

Submitted: April 29, 1999

Decided: May 5, 1999

Before WILLIAMS, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mendel J. Davis, Mount Pleasant, South Carolina, for Appellant. J. Rene Josey, United States Attorney, Miller W. Shealy, Jr., Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Patricia Derbaum appeals the 235-month sentence she received after she pled guilty to conspiracy to possess with intent to distribute and to distribute methamphetamine. See 21 U.S.C. § 846 (1994). She contends that the district court clearly erred in finding that she obstructed justice, see U.S. Sentencing Guidelines Manual § 3C1.1 (1997), and in finding that she failed to accept responsibility for her criminal conduct. See USSG § 3E1.1. We affirm.

Following her initial appearance and release on bond, Derbaum tested positive for drug use on numerous occasions. Her bond was revoked and she was rearrested. She was again released on bond to begin a month-long inpatient treatment program. Derbaum then agreed to cooperate with authorities, but failed to take a scheduled polygraph examination and absconded before sentencing. She was arrested a few months later in possession of marijuana and "crank" (a crystalline amphetamine).

When she was sentenced, Derbaum testified that she failed to appear for sentencing because she had been threatened by members of the Hell's Angels and feared for her safety and that of her daughter. The district court, however, did not credit her explanation and determined that Derbaum had willfully obstructed justice and had failed to demonstrate acceptance of responsibility. We find that neither of the court's decisions is clearly erroneous.

We therefore affirm the sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED